

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Modernizing the E-rate	)	WC Docket No. 13-184
Program for Schools and Libraries	)	

**INITIAL COMMENTS OF E-RATE & EDUCATIONAL SERVICES, LLC NOTICE OF  
PROPOSED RULEMAKING**

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E-Rate & Educational Services, LLC submits the following comments in response to the FCC's Notice of Proposed Rulemaking to modernize the E-rate Program for Schools and Libraries.

E-Rate & Educational Services, LLC is a business dedicated to assisting school districts in applying for and receiving E-rate funding for eligible telecommunication services, internet access and internal connections. We offer assistance with completing the E-Rate application process in a timely manner and in compliance with all regulatory frameworks. We are dedicated to providing ethical and professional service to every applicant. E-Rate & Educational Services is a member of E-mpa (E-Rate Management Professionals Association, Inc) and has contributed to the professional organization's response to the NPRM, as well as our own.

***Should the amount of E-Rate funding cap be increased either temporarily or permanently?***

E-Rate has been very important to our districts because it has helped our students and teachers gain access to a wealth of online resources, communicate and collaborate, and develop the 21st century skills necessary for college and career. However, E-Rate funding levels have not kept pace with our district's current and future bandwidth needs. We concur with ISTE® recommendations and urge you to raise the E-Rate funding level to at least \$5 billion per year, which is close to the average demand level for each of the past two years.

As E-Rate Management Professionals with educational backgrounds, we know that seamlessly infusing digital learning throughout the curriculum is a prerequisite for students to graduate from high

school with the skills and knowledge they need to succeed in today's global economy. Access to high-speed broadband is the key to allowing modern teaching and learning to occur in all schools across the country. Our districts use digital learning to personalize learning, provide online classes, meet Common Core State Standards, administer online assessments, make data-driven decisions, and more.

The E-Rate program has been a phenomenal success in bringing internet access to almost every classroom in America. In the last funding cycle, applications from schools and libraries requested a total of more than \$5 billion—twice the amount of available funding. We respectfully urge the FCC to increase funding for the E-Rate program to at least \$5 billion plus an inflation factor to meet this demand. All students need access to high-speed broadband. Our nation's future depends on their success. ISTE®

***Should certain services no longer be eligible for E-rate or eligible at a reduced discount level?***

E-Rate & Educational Services concurs with E-mpa's recommendations that all broadband technologies inclusive of fiber, point to point fixed wireless broadband, and Satellite should be included within the eligible services list to meet the needs of all potential recipients of the E-Rate Funding Program. We also concur with the Commission's proposal to provide priority one support for special construction charges, design, engineering cost, project management cost, digging trenches, and laying leased dark fiber. This decision will remove an additional cost burden on schools/libraries and accelerate the implementation of Broadband service for those entities that currently do not have a fiber based broadband network in place.

In response to whether NIF's should become ineligible, we propose that they remain eligible, as in most school districts, educational success is dependent upon support services located in NIFs.

***Should E-Rate funding for all voice communications services be phased out and if so when and how, or should voice communications services continue to be funded but at a lower priority or lower discount?***

E-Rate & Educational Services does not support voice communications being phased out as many of our districts are rural and/or remote rural and have limited access to higher technology.

E-Rate and Educational Services drafted the LCP response for E-mpa's NPRM Collaborative Response. We believe the topic to be of importance so submit our LCP comments here as well:

***Clarification of Lowest Corresponding Price***

In Response to ¶39 (pg. 14). We support the Commission in measuring compliance with LCP. As E-rate Managers, we have a unique advantage to see pricing over multiple applications so have been assisting applicants for years in attaining competitive pricing. However, applicants who do not have a professional consultant acting as an advocate may consistently pay non-LCP, not realizing pricing is inflated. Monitoring LCP is necessary to protect applicants and the fund. Currently, during a cost-effective review, it is the applicant's responsibility to provide documentation of cost and reasons for the high costs. This is often outside of the applicant's expertise and requires hours of research and documentation gathering. FRN's found not to be cost-effective are denied which punishes the applicant rather than giving the service provider the opportunity to provide LCP and continue the service. When FRN's are denied, students are denied access to high speed connectivity that allows students and teachers to take advantage of the rapidly expanding opportunities for interactive digital learning. We do not support the measurement of LCP adding additional burden to applicants, but rather supports the obligation of service providers to provide the Commission with LCP compliance verification, as is proposed in section VI.D.3.c (paragraph 309) of the NPRM.

In Response to ¶209 (pg. 56). E-Rate & Educational Services is opposed to requiring an applicant to report to USAC the fact that only one bid or no bids were received, as it places additional burden on the applicant and USAC. For example, many small and rural districts have only sole providers of service. We recommend the Commission continue with current guidelines of memorializing the fact that only one bid or no bids were presented during the competitive bidding process. We do not support applicants having to undergo additional review for one bid/no bid as it places additional burden on the applicant and USAC, possibly delaying funding and thereby negatively impacting students. We agree that USAC should continue with its current practice of additional review if the price for service at issue is flagged as higher



than similar services. E-Rate & Educational Services recommends that review in this situation, be directed not to the applicant but to the service provider who will be able to explain the pricing, including factors that affect cost of service (i.e. volume, mileage from facility, length of contract) and provide documentation of LCP (or documentation that LCP is not compensatory). In addition, if determined by USAC that LCP is compensatory and was not offered, it is our recommendation that the service provider be allowed to adjust pricing to LCP. Furthermore, if LCP cannot be offered by the current provider under review, it is recommended the applicant be allowed to switch providers without penalty via a SPIN change.

In Response to ¶210 (pg. 56). E-Rate & Educational Services supports clarifying the scope and meaning of the LCP rule. However, we do not support the clarifications as laid out by US Telecom and CTIA and offers this rebuttal:

- 1) LCP obligation applies to all service providers who seek reimbursement from USF with or without response to a Form 470.
- 2) When under contract, applicants have the right to review pricing on an annual basis and request LCP if determined that lower pricing is now available. The service provider must respond to applicant's inquiry as to pricing, special promotions, etc as it applies to similarly situated nonresidential customers.
- 3) Service providers must certify compliance with LCP on FCC Forms 473 and 474. In addition, service providers must submit upon request to USAC and/or applicant, verification of LCP (as determined by the service providers' internal accounting systems). For example, if an applicant deems prices are high but is unsure about competitive cost of internet access, the service provider, upon request, will provide the applicant with the data used to determine LCP, including but not limited to prices charged to similarly situated non-residential customers; also, service providers will cooperate fully and in all respects with the applicant, USAC and any agency or organization administering the E-rate program to ensure the applicant receives the LCP to which it is entitled in connection with the provider's services and products.

4) Bundled pricing is acceptable for determination of LCP as long as pricing is compared to similar bundles with comparable elements and function.

5) It is the burden of the service provider to supply documentation of LCP upon request from USAC or Applicant. The service provider is responsible for ensuring LCP is provided, the applicant is not obligated to ask for LCP but must receive it. The applicant has no way of verifying whether it is receiving LCP or not, nor does it know which schools and libraries in its geographic area are serviced by a particular vendor and what price is being charged to similarly situated schools and libraries. For this burden to be put on the applicant, as is suggested in the Petitioner's comments, is unrealistic and likely unattainable.

In Response to ¶309 (pg. 91). E-rate & Educational Services supports adding service provider certifications on both FCC Form 473 and FCC Form 474 that LCP has been provided.

The benefits include:

- 1) Assurance of LCP so applicants know that service providers are not charging schools and libraries more than non-residential customers who are similarly situated.
- 2) Applicants who may lack experience in the bidding and procurement process would be assured that the chosen service provider has offered competitive pricing.
- 3) Reduction of waste, fraud, and abuse of the fund as this could stretch the funds dollars so more students have access to better services.
- 4) It demonstrates the Commission is serious about the LCP obligation and there will be consequences for noncompliance.

The burden includes:

- 1) Operating on the assumption that service providers have already been offering LCP and have internal controls in place to ensure LCP, the burden would be ministerial as only the forms will need to be modified to include the LCP certification.

We propose this step is necessary to ensure service provider accountability, bring digital access to students, and ensure the continuation and viability of USF. Adding LCP certification to FCC Form 473

and FCC Form 474 provides accountability for complying with this rule as the penalty for certification violations can be fine, forfeiture, imprisonment, and service provider liability under the False Claims Act. E-Rate & Educational Services acknowledges the value provided by service providers in fulfilling the purpose of the E-rate program. It is understood that service providers must charge compensatory pricing in order to stay in business; offering LCP to applicants makes continuing service possible and benefits all stakeholders. We support the goal of maximizing funds while continuing positive collaboration of service providers and applicants - certification of LCP is one way to do this while imposing minimal additional burden.

***Should E-rate funds be allocated based on cost-per-student or a cost-per-building basis?***

It is possible a cost-per-student allocation can improve fairness and equity within the fund and provide services to more students nationally. It is important; however, that schools and libraries retain their rural/remote rural status and receive a compensatory allocation as services to these areas are more expensive than those in urban locales. In addition, the discount matrix should not be eliminated or modified. If cost-per-student allocation is adopted, we support the applicants' use of E-rate funds to reimburse for any E-rate eligible service, discontinuing with the P1, P2 service categories.

The Funds For Learning E-Rate 2.0 Proposal, backed with statistical data, has merit. The proposal for a per-student funding cap without other changes to the program would eliminate the need for a nation-wide E-Rate training initiative. With every change comes the responsibility of training all stakeholders involved in the E-Rate process. The proposal will also conserve the fund

***Additional Recommendations:***

- 1) We recommend the development of an Online Form 500 or a revision to the FCC Form 472 that includes a check box indicating the applicant will return unused dollars to the fund upon reconciliation of the FRN, but not before 30 days after the Quarterly Disbursement Report is

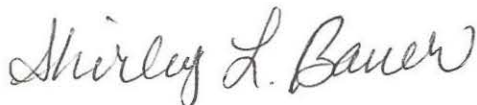


mailed to the applicant.

- 2) A place on the USAC website for eligible entities to place their "Equipment Wish List or "Equipment for Transfer." That way, schools that are eligible to transfer equipment can quickly see who has a need for it. This sharing network helps working equipment be used rather than warehoused because it can't be sold or discarded yet. This issue comes to light frequently with the closing and/or relocation of schools.

In summary, E-Rate & Educational Services, LLC recommends an increase in funds to the E-Rate program so all students regardless of where they live or go to school can be assured of receiving the bandwidth they need to gain a world-wide competitive edge. It is also important to consider that the program be fair and equitable to *every* student, and furthermore, it should be aligned to meet current and future K-12 education priorities.

Respectfully Submitted by:



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